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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Makoto Endou

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EXAMINER

NAJARIAN, LENA

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,144

Applicant(s)

ENDOU, MAKOTO

Examiner

Lena Najarian

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20060518</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 5/18/06. Claims 1-20 remain pending. Claims 1-4 and 12-14 have been amended. Claims 15-20 are newly added.

Specification

2. The objection to the abstract is hereby withdrawn due to the amendment filed 5/18/06.

Claim Objections

3. The objection to claim 3 is hereby withdrawn due to the amendment filed 5/18/06.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Summerell et al. (5,937,387).

(A) The amendments to claims 1-4 and 12-14 appear to have been made for purposes of clarity, but otherwise do not affect the scope and breadth of the claims as originally

presented and/or in the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, the recited claimed features are rejected for the same reasons given in the prior Office Action, and incorporated herein.

(B) Claims 5-11 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

(C) Referring to claim 15, Summerell discloses wherein said health guidance information is produced by the analytic server on the basis of analysis of accumulated health information and basic data in said health information database (col. 5, lines 45-67 of Summerell).

(D) Referring to claim 16, Summerell discloses wherein said health guidance information comprises an amount of exercise (Fig. 20 of Summerell).

Insofar as the claim recites "one of," it is immaterial whether or not the other element is also disclosed.

(E) Referring to claim 17, Summerell discloses wherein the analytic server predicts and analyzes lifestyle-related diseases on the basis of analyzing accumulated health information and basic data in said health information database (col. 14, lines 21-41 of Summerell).

(F) Referring to claim 18, Summerell discloses wherein the accumulated health information comprises an amount of exercise, and wherein the basic data in said health information database comprises an amount of exercise (col. 5, lines 5-10 and col. 8, line 55 – col. 9, line 3 of Summerell).

Insofar as the claim recites "one of," it is immaterial whether or not the other elements are also disclosed.

(G) Referring to claim 20, Summerell discloses wherein the user terminal receives reference information transmitted from the health care center terminal (Fig. 27 and col. 17, lines 4-6 of Summerell).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Summerell et al. (5,937,387) in view of Mansfield et al. (5,819,735).

(A) Referring to claim 19, Summerell does not expressly disclose wherein the health information is accumulated daily from the user.

Mansfield discloses wherein the health information is accumulated daily from the user (col. 7, lines 7-11 of Mansfield).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Mansfield within Summerell. The motivation for doing so would have been to have up-to-date information for conducting the analysis.

Response to Arguments

8. Applicant's arguments filed 5/18/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 5/18/06.

(1) Applicant argues that Summerell does not teach or suggest that the "server computer system" is connected to an analytic server (Summerell's wellness options system), transmits received health information to the analytic server, and receives information analyzed by the health analysis function of the analytic server to be transmitted to the user terminal.

(A) As per the first argument, the Examiner respectfully submits that Summerell discloses at col. 8, lines 4-7 that "the present invention can be accessed through either an internet or intranet format...." Since Summerell's invention is in a network format, it is suggested that the group of computers are connected. As such, it is respectfully submitted that there is clearly an interaction amongst the elements of Summerell's invention.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a method and system for providing dietary information (US 6,980,999 B1) and a nutritional optimization method (5,954,640).

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ln
In
7-10-06


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER